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7 **IN THE UNITED STATES DISTRICT COURT**
8 **DISTRICT OF THE NORTHERN MARIANA ISLANDS**

9 **RANDALL T. FENNELL,**

Civil Case No. 09-00019

10 Plaintiff,

11 v.

12 **MATTHEW T. GREGORY, et al.,**

13 **ORDER UPON REMAND RE:**
14 **DEFENDANTS' MOTION TO DISMISS**

15 Defendants.

16 In keeping with the memorandum opinion of the Ninth Circuit in this case (*see* Docket No.
17 42; *see also* Docket No. 43):

- 18 • Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for
19 violation of his substantive due process rights is hereby **DISMISSED WITH**
20 **PREJUDICE**, because the Attorneys General are entitled to qualified immunity with
21 respect to Plaintiff's Fourteenth Amendment due process claims;
- 22 • Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for
23 violation of his First Amendment rights is hereby **DISMISSED WITHOUT**
24 **PREJUDICE**, for failure to state a claim under the pleading standards of *Ashcroft*
25 *v. Iqbal*, 556 U.S. ___, 129 S. Ct. 1937 (2009); and
- 26 • Plaintiff's claim for relief under Section 1983 of Title 42, United States Code for
27 violation of his equal protection rights is hereby **DISMISSED WITHOUT**
28 **PREJUDICE**, for failure to state a claim by failing to allege differential treatment
from similarly situated individuals.

1 The court's order of September 28, 2009 (*see* Docket No. 34) stands in all other respects.

2 As such, all causes of action are dismissed.

3 Plaintiff shall file a "First Amended Complaint" by April 28, 2011, if at all. Should Plaintiff
4 not file an amended complaint, the court will dismiss all claims with prejudice.

5 **SO ORDERED** this 13th day of April, 2011.



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8 /s/ Frances M. Tydingco-Gatewood
9 FRANCES M. TYDINGCO-GATEWOOD¹
District Judge

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27 ¹ The Honorable Frances M. Tydingco-Gatewood, Chief Judge, District Court of Guam, by designation. *See*
48 U.S.C. § 1821(b)(2).

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